

**IN THE UNITED STATES BANKRUPTCY COURT
NORTHERN DISTRICT OF OHIO
EASTERN DIVISION**

IN RE RICHARD M. OSBORNE
Debtor

CASE NO. 17-17361
CHAPTER 7
JUDGE ARTHUR I. HARRIS

KARI B. CONIGLIO, TRUSTEE,
Plaintiff

ADVERSARY NO. 20-01013-AIH

vs.

RICHARD M. OSBORNE, SR., ET AL.,
Defendants

**DEBTOR, RICHARD M. OSBORNE’S ANSWER TO COMPLAINT TO (I) SUBSTANTIVELY
CONSOLIDATE NON-DEBTOR ENTITIES; (II) AVOID AND RECOVER PREFERENTIAL
TRANSFERS; (III) AVOID AND RECOVER FRAUDULENT TRANSFERS; (IV) AVOID AND RECOVER
UNAUTHORIZED POST-PETITION TRANSFERS; (V) OBJECT TO CERTAIN CLAIMS; (VI)
DETERMINE SECURED STATUS AND PRIORITY; (VII) OBTAIN AN ACCOUNTING; AND (VIII)
DETERMINE VALIDITY AND PRIORITY OF LIENS**

Debtor, Richard M. Osborne (“Debtor”) answers Plaintiff’s Complaint as follows:

INTRODUCTION

1. Debtor lacks knowledge or information sufficient to form a belief about the truth of the allegations in paragraph 1.
2. Debtor admits the allegations in paragraph 2.
3. Debtor admits the allegations in paragraph 3.
4. Debtor admits the allegations in paragraph 4.
5. Debtor admits the allegations in paragraph 5.

JURISDICTION AND VENUE

6. Debtor denies in part the allegations in paragraph 6. Debtor admits that this bankruptcy court has jurisdiction over this adversary proceeding pursuant to 28 USC §§ 157(a), 1334(b) and (e), and General Order 2012-7 of the United States District Court for the Northern District of Ohio.

7. In response to the allegations in paragraph 7 of Plaintiff's Complaint Debtor admits that this adversary proceeding is a core proceeding pursuant to 28 U.S.C. § 157(b)(2)(A), (B), (F), (E), (K) and (O). To the extent that the matters herein are determined not to be core proceedings, they are related to the bankruptcy case referenced above and Debtor consents to the referral of this adversary proceeding to the bankruptcy judge to hear and determine and to enter appropriate orders and judgments, subject to review under 28 U.S.C. § 158.

8. Debtor admits the allegations in paragraph 8.

9. Debtor admits the allegations in paragraph 9.

10. Debtor admits the allegations in paragraph 10.

11. Debtor admits the allegations in paragraph 11.

12. Debtor lacks knowledge or information sufficient to form a belief about the truth of the allegations in paragraph 12.

13. Debtor lacks knowledge or information sufficient to form a belief about the truth of the allegations in paragraph 13.

FACTUAL BACKGROUND

OBLIGATIONS OWED TO OSAIR

14. Debtor admits that Osair extended a loan to Rigrtona Trust in the amount alleged in paragraph 14.

15. Debtor admits the allegations in paragraph 15.

16. Debtor admits the allegations in paragraph 16.

RMO, INC.

17. Debtor denies the allegations in paragraph 17. Debtor admits that RMO, Inc. was formed to hold and disburse funds to his creditors.

18. Debtor admits the allegations in paragraph 18.

19. Debtor lacks knowledge or information sufficient to form a belief about the truth of the allegations in paragraph 19.

20. Debtor admits the allegations in paragraph 20.

21. Debtor denies the allegations in paragraph 21. Further answering, Debtor admits that payments were made to Diane Osborne from the RMO Inc. account.

22. Debtor denies the allegations in paragraph 22. Debtor admits RMO. Inc. had a checking account at Erie Bank a division of CNB Bank.

23. Debtor admits the allegations in paragraph 23.

24. Debtor denies the allegations in paragraph 24.

RIGRTONA HOLDING

25. Debtor denies the allegations in paragraph 25.

26. Debtor admits the allegations in paragraph 26.

27. Debtor admits the allegations in paragraph 27.

28. Debtor admits the allegations in paragraph 28.

29. Debtor admits the allegations in paragraph 29.

30. Debtor denies the allegations in paragraph 30. Further answering, Home Savings received \$205,213.07.

31. Debtor denies in part the allegations in paragraph 31. Further answering, the payment to Home Savings was also made on behalf of other entities and other loans to Home Savings and to settle several outstanding obligations and litigation among Home Savings, the Debtor and other entities owned or controlled by the Debtor.

32. Debtor denies the allegations in paragraph 32.

33. Debtor denies the allegations in paragraph 33.

34. Debtor admits the allegations in paragraph 34.

35. Debtor lacks knowledge or information sufficient to form a belief about the truth of the allegations in paragraph 35.

LOANS EXTENDED BY DIANE OSBORNE TO THE DEBTOR AND AFFILIATES

36. Debtor denies the allegations in paragraph 36. Debtor admits there were several loans by Diane Osborne or her trust to him or entities he controlled.

37. Debtor lacks knowledge or information sufficient to form a belief about the truth of the allegations in paragraph 37. Debtor admits there were several loans by Diane Osborne or her trust to him or entities he controlled.

38. Debtor denies the allegations in paragraph 38. Debtor admits he and his trust pledged shares in Osborne, Inc. to Diane Osborne, but the stated numbers may not be the actual number of shares pledged.

39. Debtor lacks knowledge or information sufficient to form a belief about the truth of the allegations in paragraph 39.

40. Debtor denies the allegations in paragraph 40. Debtor admits the allegation that Diane Osborne extended the second loan to him.

41. Debtor denies the allegations in paragraph 41. Periodic payments of interest were made on all the loans to Diane Osborne from the time the loans were incurred until November 2017. Debtor admits this loan was made.

42. Debtor denies the allegations in paragraph 42. Periodic payments of interest were made on all the loans to Diane Osborne from the time the loans were incurred until November 2017. Debtor admits this loan was made.

43. Debtor admits the allegations in paragraph 43.

44. Debtor admits the allegations in paragraph 44.

45. Debtor denies the allegations in paragraph 45. Periodic payments of interest were made on all the loans to Diane Osborne from the time the loans were incurred until November 2017. Debtor admits this loan was made.

46. Debtor admits the allegations in paragraph 46.

47. Debtor lacks knowledge or information sufficient to form a belief about the truth of the allegations in paragraph 47.

48. Debtor lacks knowledge or information sufficient to form a belief about the truth of the allegations in paragraph 48. Debtor admits that there was a loan to Nathan Properties by Diane Osborne.

49. Debtor denies the allegations in paragraph 49. Periodic payments of interest were made on all the loans to Diane Osborne from the time the loans were incurred until November 2017. Debtor admits this loan was made.

50. Debtor admits the allegations in paragraph 50.

51. Debtor admits the allegations in paragraph 51.

52. Debtor denies the allegations in paragraph 52. Periodic payments of interest were made on all the loans to Diane Osborne from the time the loans were incurred until November 2017. Debtor admits this loan was made.

53. Debtor admits the allegations in paragraph 53.

54. Debtor lacks knowledge or information sufficient to form a belief about the truth of the allegations in paragraph 54. Debtor admits that there was a loan to Mentor Condos by Diane Osborne.

55. Debtor denies the allegations in paragraph 55. Periodic payments of interest were made on all the loans to Diane Osborne from the time the loans were incurred until November 2017. Debtor admits this loan was made.

56. Debtor admits the allegations in paragraph 56.

57. Debtor admits the allegations in paragraph 57.

FEBRUARY 25, 2016 LOAN AGREEMENT

58. Debtor admits the allegations in paragraph 58.

59. Debtor admits the allegations in paragraph 59.

60. Debtor admits the allegations in paragraph 60.

61. Debtor admits the allegations in paragraph 61.

62. Debtor denies the allegations in paragraph 62.

63. Debtor denies the allegations in paragraph 63. Periodic payments of interest were made on all the loans to Diane Osborne from the time the loans were incurred until November 2017.

64. Debtor admits the allegations in paragraph 64.

65. Debtor admits the allegations in paragraph 65.

66. Debtor admits the allegations in paragraph 66.

SUBORDINATION OF HSL MORTGAGE

67. Debtor admits the allegations in paragraph 67.

68. Debtor admits the allegations in paragraph 68.

DIANE OSBORNE'S AND DMO TRUSTS CONTINUOUS RELEASE OF COLLATERAL FOR LITTLE OR NO CONSIDERATION

69. Debtor denies the allegations in paragraph 69.

70. Debtor denies the allegations in paragraph 70.

71. Debtor admits the allegations in paragraph 71.

72. Debtor admits the allegations in paragraph 72.

73. Debtor lacks knowledge or information sufficient to form a belief about the truth of the allegations in paragraph 73.

74. Debtor lacks knowledge or information sufficient to form a belief about the truth of the allegations in paragraph 74.

75. Debtor admits the allegations in paragraph 75.

76. Debtor denies the allegations in paragraph 76.

DIANE OSBORNE'S AND DMO'S TRUSTS FAILURE TO PURSUE COLLECTION REMEDIES

77. Debtor denies the allegations in paragraph 77. Debtor made periodic monthly payments of interest on all the loans to Diane Osborne from the time the loans were incurred until November 2017.

78. Debtor admits the allegations in paragraph 78.

79. Debtor denies the allegations in paragraph 79.

80. Debtor denies the allegations in paragraph 80. Debtor admits that sometimes substitute collateral was provided to enable the proceeds of a sale to be freed for other uses.

81. Debtor admits the allegations in paragraph 81.

82. Debtor denies the allegations in paragraph 82.

83. Debtor lacks knowledge or information sufficient to form a belief about the truth of the allegations in paragraph 83.

DIANE OSBORNE AND DMO'S TRUSTS FAILURE TO CONDUCT ADEQUATE DUE DILIGENCE OR TO KEEP ADEQUATE RECORDS

84. Debtor lacks knowledge or information sufficient to form a belief about the truth of the allegations in paragraph 84.

85. Debtor lacks knowledge or information sufficient to form a belief about the truth of the allegations in paragraph 85.

86. Debtor lacks knowledge or information sufficient to form a belief about the truth of the allegations in paragraph 86.

87. Debtor lacks knowledge or information sufficient to form a belief about the truth of the allegations in paragraph 87.

88. Debtor lacks knowledge or information sufficient to form a belief about the truth of the allegations in paragraph 88.

THE DEBTOR'S INSOLVENCY

89. Debtor denies the allegations in paragraph 89.

90. Debtor denies the allegations in paragraph 90.

91. Debtor denies the allegations in paragraph 91. Debtor admits those are the amounts on his Schedules as to the amounts of his assets and liabilities on the Petition Date.

92. Debtor denies the allegations in paragraph 92. Debtor admits there were many judgment liens taken against him including those cited by the Plaintiff in this paragraph.

93. Debtor lacks knowledge or information sufficient to form a belief about the truth of the allegations in paragraph 93.

COUNT I

94. Debtor incorporates by reference as if fully rewritten here his answers to paragraphs 1 through 94.

95. Debtor admits the allegations in paragraph 95.

96. Debtor admits the allegations in paragraph 96.

97. Debtor admits the allegations in paragraph 97.

98. Debtor denies the allegations in paragraph 98.

99. Debtor denies the allegations in paragraph 99.

100. Debtor denies the allegations in paragraph 100.

101. Debtor denies the allegations in paragraph 101.

102. Debtor denies the allegations in paragraph 102.

103. Debtor denies the allegations in paragraph 103.

104. Debtor denies the allegations in paragraph 104. Debtor admits the allegation the RMO, Inc. has no creditors.

105. Debtor denies the allegations in paragraph 105.

106. Debtor denies the allegations in paragraph 106.

COUNT II

107. Debtor incorporates by reference as if fully rewritten here his answers to paragraphs 1 through 107.

108. Debtor admits the allegations in paragraph 108.

109. Debtor denies the allegations in paragraph 109.

110. Debtor denies the allegations in paragraph 110.

111. Debtor denies the allegations in paragraph 111.

112. Debtor denies the allegations in paragraph 112.

113. Debtor denies the allegations in paragraph 113.

114. Debtor denies the allegations in paragraph 114.

115. Debtor denies the allegations in paragraph 115.

116. Debtor denies the allegations in paragraph 116.

COUNT III

117. Debtor incorporates by reference as if fully rewritten here his answers to paragraphs 1 through 117.

118. Debtor denies the allegations in paragraph 118. Debtor admits he and his trust pledged shares in Osborne, Inc. to Diane Osborne, but the stated numbers may not be the actual number of shares pledged.

119. Debtor admits the allegations in paragraph 119.

120. Debtor denies the allegations in paragraph 120.

121. Debtor admits the allegations in paragraph 121.

122. Debtor denies the allegations in paragraph 122.

123. Debtor denies the allegations in paragraph 123.

124. Debtor admits the allegations in paragraph 124.

125. Debtor admits the allegations in paragraph 125.

126. Debtor denies the allegations in paragraph 126.

127. Debtor denies the allegations in paragraph 127.

128. Debtor denies the allegations in paragraph 128.

129. Debtor denies the allegations in paragraph 129.

130. Debtor denies the allegations in paragraph 130.

COUNT IV

131. Debtor incorporates by reference as if fully rewritten here his answers to paragraphs 1 through 131.

132. Debtor admits the allegations in paragraph 132.

133. Debtor denies the allegations in paragraph 133.

134. Debtor denies the allegations in paragraph 134.

135. Debtor denies the allegations in paragraph 135.

136. Debtor denies the allegations in paragraph 136.

137. Debtor denies the allegations in paragraph 137.

138. Debtor admits the allegations in paragraph 138.

139. Debtor admits the allegations in paragraph 139.

140. Debtor denies the allegations in paragraph 140.

COUNT V

141. Debtor incorporates by reference as if fully rewritten here his answers to paragraphs 1 through 141.

142. Debtor admits the allegations in paragraph 142.

143. Debtor denies the allegations in paragraph 143.

144. Debtor denies the allegations in paragraph 144.

145. Debtor denies the allegations in paragraph 145.

146. Debtor denies the allegations in paragraph 146.

147. Debtor denies the allegations in paragraph 147.

148. Debtor denies the allegations in paragraph 148.

149. Debtor denies the allegations in paragraph 149.

150. Debtor denies the allegations in paragraph 150.

151. Debtor denies the allegations in paragraph 151.

152. Debtor denies the allegations in paragraph 152.

153. Debtor denies the allegations in paragraph 153.

COUNT VI

154. Debtor incorporates by reference as if fully rewritten here his answers to paragraphs 1 through 154.

155. Debtor denies the allegations in paragraph 155.

156. Debtor denies the allegations in paragraph 156.

157. Debtor denies the allegations in paragraph 157.

158. Debtor denies the allegations in paragraph 158.

159. Debtor denies the allegations in paragraph 159.

COUNT VII

160. Debtor incorporates by reference as if fully rewritten here his answers to paragraphs 1 through 160.

161. Debtor denies the allegations in paragraph 161.

162. Debtor admits the allegations in paragraph 162.

163. Debtor denies the allegations in paragraph 163.

164. Debtor denies the allegations in paragraph 164.

165. Debtor denies the allegations in paragraph 165.

COUNT VIII

166. Debtor incorporates by reference as if fully rewritten here his answers to paragraphs 1 through 166.

167. Debtor denies the allegations in paragraph 167.

168. Debtor admits the allegations in paragraph 168.

169. Debtor denies the allegations in paragraph 169.

170. Debtor denies the allegations in paragraph 170.

171. Debtor denies the allegations in paragraph 171.

COUNT IX

172. Debtor incorporates by reference as if fully rewritten here his answers to paragraphs 1 through 172.

173. Debtor admits the allegations in paragraph 173.

174. Debtor denies the allegations in paragraph 174.

175. Debtor denies the allegations in paragraph 175.

- 176. Debtor denies the allegations in paragraph 176.
- 177. Debtor denies the allegations in paragraph 177.
- 178. Debtor denies the allegations in paragraph 178.
- 179. Debtor denies the allegations in paragraph 179.
- 180. Debtor denies the allegations in paragraph 180.
- 181. Debtor denies the allegations in paragraph 181.
- 182. Debtor denies the allegations in paragraph 182.
- 183. Debtor denies the allegations in paragraph 183.
- 184. Debtor denies the allegations in paragraph 184.

COUNT X

185. Debtor incorporates by reference as if fully rewritten here his answers to paragraphs 1 through 185.

- 186. Debtor denies the allegations in paragraph 186.
- 187. Debtor denies the allegations in paragraph 187.
- 188. Debtor denies the allegations in paragraph 188.
- 189. Debtor denies the allegations in paragraph 189.

COUNT XI

190. Debtor incorporates by reference as if fully rewritten here his answers to paragraphs 1 through 190.

- 191. Debtor denies the allegations in paragraph 191.
- 192. Debtor admits the allegations in paragraph 192.
- 193. Debtor denies the allegations in paragraph 193.
- 194. Debtor denies the allegations in paragraph 194.
- 195. Debtor admits the allegations in paragraph 195.

196. Debtor denies the allegations in paragraph 196.

197. Debtor denies the allegations in paragraph 197.

COUNT XII

198. Debtor incorporates by reference as if fully rewritten here his answers to paragraphs 1 through 198.

199. Debtor denies the allegations in paragraph 199.

200. Debtor denies the allegations in paragraph 200.

201. Debtor denies the allegations in paragraph 201.

202. Debtor denies the allegations in paragraph 202.

203. Debtor denies the allegations in paragraph 203.

COUNT XIII

204. Debtor incorporates by reference as if fully rewritten here his answers to paragraphs 1 through 204.

205. Debtor denies the allegations in paragraph 205.

206. Debtor denies the allegations in paragraph 206.

207. Debtor denies the allegations in paragraph 207.

208. Debtor denies the allegations in paragraph 208.

COUNT XIV

209. Debtor incorporates by reference as if fully rewritten here his answers to paragraphs 1 through 209.

210. Debtor denies the allegations in paragraph 210.

211. Debtor denies the allegations in paragraph 211.

212. Debtor denies the allegations in paragraph 212.

213. Debtor denies the allegations in paragraph 213.

COUNT XV

214. Debtor incorporates by reference as if fully rewritten here his answers to paragraphs 1 through 214.

215. Debtor denies the allegations in paragraph 215.

216. Debtor admits the allegations in paragraph 216.

217. Debtor denies the allegations in paragraph 217.

218. Debtor admits the allegations in paragraph 218.

219. Debtor denies the allegations in paragraph 219.

220. Debtor denies the allegations in paragraph 220.

221. Debtor denies the allegations in paragraph 221.

COUNT XVI

222. Debtor incorporates by reference as if fully rewritten here his answers to paragraphs 1 through 222.

223. Debtor denies the allegations in paragraph 223.

224. Debtor denies the allegations in paragraph 224.

225. Debtor denies the allegations in paragraph 225.

COUNT XVII

226. Debtor incorporates by reference as if fully rewritten here his answers to paragraphs 1 through 226.

227. Debtor denies the allegations in paragraph 227.

228. Debtor admits the allegations in paragraph 228.

229. Debtor admits as to the Debtor only the allegations in paragraph 229.

230. Debtor admits as to the Debtor only the allegations in paragraph 230.

231. Debtor denies the allegations in paragraph 231.

COUNT XVIII

232. Debtor incorporates by reference as if fully rewritten here his answers to paragraphs 1 through 232.

233. Debtor admits the allegations in paragraph 233.

234. Debtor denies the allegations in paragraph 234.

235. Debtor denies the allegations in paragraph 235.

236. Debtor denies the allegations in paragraph 236.

237. Debtor denies the allegations in paragraph 237.

COUNT XIX

238. Debtor incorporates by reference as if fully rewritten here his answers to paragraphs 1 through 238.

239. Debtor admits the allegations in paragraph 239.

240. Debtor denies the allegations in paragraph 240.

241. Debtor denies the allegations in paragraph 241.

242. Debtor denies the allegations in paragraph 242.

243. Debtor admits the allegations in paragraph 243.

COUNT XX

244. Debtor incorporates by reference as if fully rewritten here his answers to paragraphs 1 through 244.

245. Debtor denies the allegations in paragraph 245.

246. Debtor denies the allegations in paragraph 246.

COUNT XXI

247. Debtor incorporates by reference as if fully rewritten here his answers to paragraphs 1 through 247.

248. Debtor denies the allegations in paragraph 248.

249. Debtor denies the allegations in paragraph 249.

250. Debtor denies the allegations in paragraph 250.

251. Debtor denies the allegations in paragraph 251.

AFFIRMATIVE DEFENSES

252. Debtor incorporates by reference his answer to the preceding paragraphs as if fully rewritten herein.

253. Plaintiff's Complaint fails to state a claim upon which relief may be granted.

254. Plaintiff's Complaint misrepresents facts in the allegations presented.

255. Debtor reserves the right to assert additional defenses as discovery and this matter proceeds.

WHEREFORE, Debtor, Richard M. Osborne, respectfully requests the court dismiss Plaintiff's Complaint in its entirety, and for any such other relief to which the Debtor may be entitled.

/s/ Frederic P. Schwieg

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CERTIFICATE OF SERVICE

A copy of this Answer was served via the Court's ECF system on all parties of record.

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/s/ Frederic P. Schwieg

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